



Steven W. Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Veterinary Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

July 8, 2020

Hal Johnson
Randolph County Manager
725 McDowell Road
Asheboro, NC 27204
Via Hand Delivery

NOTICE of WARNING

Re: Compliance with N.C.G.S. § 19A-32.1(a), (d) and (j) and 02 NCAC 52J .0101(4) and .0210(c)

Dear County Manager Johnson:

The Animal Welfare Section ("AWS") of the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") conducted a facility compliance inspection ("FCI") of the Randolph County Animal Service Animal Shelter ("the shelter") on June 1, 2020. This FCI included a review of the shelter records.

At the time of the June 1, 2020 FCI, the records were scanned for later review. This review along with follow-up reviews of subsequent records revealed inconsistencies in compliance with N.C.G.S. § 19A-32.1(a) and (j) and 02 NC Administrative Code ("NCAC") 52J .0101(4). Specifically, it appears that:

- 1) several stray animals were not held for the full 72-hour minimum holding period;
- 2) the shelter did not comply with the requirements of N.C.G.S. § 19A-32.1(d) for transfer to an approved rescue organization of animals prior to the end of the 72-hour minimum holding period;
- 3) the duration of impoundment was not accurately reflected in some of the shelter records; and
- 4) the shelter may have altered records in attempt to cover these violations.

In addition, AWS discovered information concerning a cat that was transferred to a rescue from the shelter. According to the information available to AWS, that rescue had the cat examined by 2 veterinarians. Both veterinarians recommended immediate euthanasia of the cat due to a very painful, long-standing condition. This cat entered the shelter on May 29, 2020 and was sent to rescue on June 12,

2020. During the 15-day stay at the shelter, this animal was neither examined by a veterinarian despite his medical condition nor was he provided with appropriate veterinary care to alleviate the pain from this medical condition in violation of 02 NCAC 52J .0210(c). After the animal had been transferred, the shelter manager relayed to AWS that the cat had stopped eating during his shelter stay. There is no documentation of this information or of any veterinary care to address the medical condition in the animal's record. The disposition paperwork for this animal lacks the full written disclosure of the medical condition to the new owner required by 02 NCAC 52J .0210 (c).

This Warning Letter serves as written notice indicating in which respects the kennel may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

In order to avoid future violation of these provisions, and the civil penalties and/or suspension/revocation of the shelter's certificate of registration that can result therefrom, AWS strongly encourages the shelter to develop and fully implement written protocols to address the following concerns:

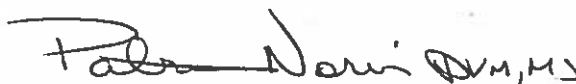
- 1) protocols to ensure that stray animals are held for the 72-hour minimum holding period;
- 2) protocols to ensure that the shelter complies with N.C.G.S § 19A-32.1(d) for any animal required to be held for 72 hours, if the animal is released early to an approved foster care provider or approved rescue;
- 3) protocols to ensure that all paperwork accurately reflects the impoundment period of the animal;
- 4) protocols to ensure any animal requiring veterinary care is provided with appropriate veterinary for its medical condition or is euthanized in compliance with 02 NCAC 52J .0210(c);
- 5) protocols to ensure that full written disclosure of medical conditions is provided to all new owners;
- 6) written standards for approved foster care providers; and
- 7) written standards for approved rescue organizations.

AWS further encourages the shelter to provide these protocols and standards to AWS for review.

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's certificate of registration pursuant to N.C.G.S. § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C.G.S. § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris DVM, MS".

Patricia Norris, DVM, MS
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

cc:

Dr. R. Douglas Meckes, DVM, State Veterinarian, NCDA&CS
Joseph Reardon, Assistant Commissioner, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Christopher McLennan, Assistant Attorney General

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer

minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(d) During the minimum holding period, an animal shelter may place an animal it is holding into foster care by transferring possession of the animal to an approved foster care provider, an approved rescue organization, or the person who found the animal. If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of as provided in subsection (f) of this section.

(e) If a shelter places an animal in foster care, the shelter may, in writing, appoint the person or organization possessing the animal to be an agent of the shelter. After the expiration of the minimum holding period, the shelter may (i) direct the agent possessing the animal to return it to the shelter, (ii) allow the agent to adopt the animal consistent with the shelter's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the shelter. A shelter may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the shelter. The local government or organization operating the shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

(j) Animal shelters shall maintain a record of all animals impounded at the shelter, shall retain those records for a period of at least three years from the date of impoundment, and shall make those records available for inspection during regular inspections pursuant to this Article or upon the request of a representative of the Animal Welfare Section. These records shall contain, at a minimum:

- (1) The date of impoundment.
- (2) The length of impoundment.
- (3) The disposition of each animal, including the name and address of any person to whom the animal is released, any institution that person represents, and the identifying information required under subsection (i) of this section.
- (4) Other information required by rules adopted by the Board of Agriculture.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (4) disposition of animals including name and address of person to whom animal is sold, traded or adopted and the date of such transaction; in the event of death, the record shall show the date, signs of illness, or cause of death if identified; if euthanized, the record shall show date and type of euthanasia; and

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.